

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM No.5148-CI of 2017 in
RFA No.4902 of 2008
Date of Decision : 01.06.2017**

Narender Nath Ahuja and another

.....Applicant-Appellants

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Umesh Narang, Advocate
for the applicant-appellants.

Mr. Shivendra Swaroop, AAG, Haryana
for respondents No.1 and 2.

Mr. Pritam Saini, Advocate for respondent No.3.

ARUN PALLI, J. (Oral)

CM No.5148-CI of 2017

This is an application, seeking recalling of the order dated 19.02.2014, rendered by this Court, vide which, the appeal preferred by the applicants was dismissed as infructuous.

Despite repeated opportunities, no replies have been filed by the respondents to the review application.

The facts that are required to be noticed are limited.

Vide notification under Section 4 of the Land Acquisition Act, published on 5.12.2000, land owned by the applicants was sought to be acquired for extension and development of industrial area. The applicants assailed the acquisition proceedings vide a Civil Writ Petition No.6072 of

2003 before this Court. And, as in the meanwhile, the reference Court vide its award dated 16.05.2008, decided the claim of the applicants under Section 18 of the Act, they also filed an appeal i.e. RFA No.4902 of 2008 before this Court, for further enhancement. Vide order and judgment dated 29.10.2013, the civil writ petition preferred by the applicants, was disposed of by the Division Bench of this Court, with a direction to the respondents to consider the feasibility of releasing the land of the petitioners from the acquisition. But, inadvertently, counsel for the applicants, in their appeal for enhancement made a statement before this Court that, for the land of the applicants has been released, in view of the observations made by the Division Bench in its order dated 29.10.2013, as a result this Court dismissed the appeal as infructuous on 19.02.2014. But, subsequently the competent authority vide order dated 14.10.2014 (Annexure-A2), declined to release the land of the applicants. The applicants never assailed the order dated 14.10.2014, any further, and thus, the acquisition proceedings have since become final. And, the State has already taken possession of the acquired land. It is maintained that the applicants acquired knowledge of the dismissal of their appeal only when in the connected appeals, preferred by the other landowners, this Court vide judgment dated 3.11.2015, enhanced the compensation to ₹28,09,856/- and the appellants contacted their counsel. Thus, this application.

The factual position, as set out above, is not disputed by the learned counsel for the respondents, and rather it is fairly submitted that since the Division Bench in its order dated 29.10.2013, did not order

release of the land of the applicants, the statement made by the counsel for the applicants before this Court on 19.02.2014, was purely accidental.

I have heard learned counsel for the parties and perused the records.

It is apparent that if the order dated 19.02.2014 is not recalled it would defeat the ends of justice. For, neither the land of the applicants was released nor, despite having filed an appeal, they shall be entitled to enhancement in the compensation as ordered by this Court.

In conspectus of the position as sketched out, the application is allowed. Consequently, the order dated 19.02.2014, is recalled, the appeal is restored to its original number and taken on Board.

RFA No.4902 of 2008

Counsel for the parties submit, for the matter in issue is squarely covered by the judgment, dated 03.11.2015, rendered by this court, in RFA No.1854 of 2002 (Bhim Sain Juneja Vs. State of Haryana and others and other connected matters), this appeal be also disposed of in terms thereof.

Ordered accordingly.

01.06.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No